

### Remarks

Claims 1-21 were previously pending and stand rejected. Claims 1, 8-10, 12, 13, 15, 18, 19, and 21 have been amended. Claim 17 has been cancelled and claims 22 and 23 have been added. Applicants assert that the claims are now in condition for allowance as set forth more fully below.

### Interview Summary

The undersigned participated in a telephone interview with the Examiner on August 24, 2004. During the interview, deficiencies in the Hite reference relative to subject matter of the present invention were discussed. Namely, it was discussed how Hite fails to disclose the end user device such as a set top box submitting requests to an external server for commercial content, and especially requests for a particular type of content. It was further discussed how Hite fails to disclose the end user device submitting information to the external server, such as the locale or specific content of interest, so that the external server may utilize this information to determine what commercial content to return to the set top box. Additionally, it was discussed how Hite fails to utilize audio tones to cause a commercial stored in a commercial database of the set top box to be provided to a television.

### 102 Rejections

Claims 1-3, 8, 12-17, and 21 stand rejected under 35 USC 102 as being anticipated by Hite. Applicants respectfully traverse these rejections.

### Claims 1- 11 and 23

The Office Action has rejected claim 1 by stating that Hite teaches all of the elements. However, amended claim 1 recites, among other things, transmitting a request from the media delivery device to an external network through a telecommunications link to receive the plurality of advertisements for storage in the media delivery device.

Hite fails to disclose that a media delivery device that transmits a request to an external network through a telecommunications network to receive. Instead, Hite only discusses the commercials being selected at the media origination site and then sent down

to the display site without regard for any request for the content. Hite's only discussion of an upstream communication from the display site to the media origination site involves transmitting registration and certification codes which allows the upstream systems to keep tabs on which commercials have been used at the display site. Hite provides no mechanism for the display site to request advertisements. Accordingly, claim 1 is allowable over Hite for at least this reason.

Dependent claims 2-11 and 23 depend from an allowable claim 1 and are also allowable for at least the same reasons. Furthermore, one or more of claims 2-11 and 23 recite additional features that are patentable over Hite. For example, amended claim 9 recites transmitting signals between the media delivery device and the external network indicating the one or more types of advertisements that appeal to users of the media delivery device and classifying the stored advertisements according to a plurality of categories, which includes a classification according to the type of advertisement that is stored. As Hite does not disclose transmitting a request for the advertisements, Hite also does not disclose that any signals that are transmitted that indicate one or more types of advertisements that appeal to users. Hite relies on the media origination site's ability to determine what is appropriate for the display site without regard for any signals providing an indication. Therefore, claim 9 is allowable over Hite for these additional reasons.

#### Claims 12-14

The Office Action has rejected claim 12 by stating that Hite also teaches all of the elements of this claim. However, amended claim 12 recites that a portable handheld media delivery device comprises, among other things, means for portably receiving and providing the broadcast media programming and the substituted advertisement. Support for this claim as provided, for example, at page 18 of the specification where it is stated that the media delivery device may be a personal digital assistant, a cellular or wireless telephone, etc.

Hite does not disclose a portable handheld device as the display site. Instead, the display site is said to have a recording device that is installed at the display site. See for example col. 1, lines 40-45, col. 2, lines 17-22 and lines 60-66. Thus, Hite is not concerned with portable handheld devices but instead devices that are installed at a

particular location. Accordingly, claim 12 is allowable over Hite for at least these reasons.

Dependent claims 13 and 14 depend from an allowable claim 12 and are also allowable for at least the same reasons.

#### Claims 15, 16, and 18 -20

The Office Action has rejected claim 15 by stating that Hite teaches all of the elements. However, amended claim 15 recites that storing a plurality of television commercials advertising products or services for local business concerns in a database, wherein the advertised products are each of a type that has been determined to appeal to one or more users of the set top box. Claim 15 further recites wherein storing the plurality of television commercials comprises transmitting a request through a telecommunications link to an external server to receive television commercials for storage in the set top box, transmitting signals between the set top box and the server to identify the set top box to the server, and receiving encoded data files of television commercials through the telecommunications link for storage in the set top box.

As discussed above in relation to claim 1, Hite fails to teach transmitting a request to an external server to receive commercials for storage in a set top box. Again, Hite discloses the media origination site sending the commercial data to the display site without regard for any request from the display site and Hite only refers to upstream communications to send registration and certification codes for allowing the media origination site to keep tabs on which stored commercials have already been used. Accordingly, claim 15 is allowable over Hite for at least these reasons.

Dependent claims 16 and 18-20 depend from an allowable claim 15 and are also allowable for at least the same reasons. Furthermore, one or more of claims 16 and 18-20 recite additional features that are patentable over Hite. For example, claim 18 recites wherein the transmitted signals identify the relative location of a household in which the set top box is operating, relative to a local broadcasting area for a television station. Hite does not disclose the display site sending the relative location of the household as the only upstream communication of Hite is the registration and certification codes that relate to the commercials that have already been used. Claim 19 recites wherein the transmitted

signals identify the types of television commercials that are of interest to users of the set top box. Again, Hite does not disclose the display site possessing any information about the types of commercials that are of interest to the users and does not send any signals that identify the types of commercials that are of interest, but simply receives those commercials that the media origination site has determined to download to the display site. Therefore, claims 18 and 19 are also allowable for these additional reasons.

#### Claim 21

The Office Action has rejected claim 20 by stating that Hite teaches all of the elements. However, amended claim 20 recites that the system comprises, among other things, a commercials detector for detecting audio tones in broadcast media programming where one or more of the audio tones are substitution signals that indicate authorization for a local television station to insert a locally stored advertisement into the media stream and switching logic to interrupt a television connected to the set top box from the media programming stream and to temporarily decode a television commercial stored in the commercials database when a substitution signal is detected in the commercials detector. Thus, the switching logic that interrupts the television from the media programming stream provided to the set top box does so upon the commercials detector detecting an audio tone in the media programming that is a substitution signal.

Hite fails to teach the detection of audio tones to result in a device of the display site substituting an advertisement that has been stored in place of a media stream being provided to the display site. Hite relies upon CID codes, as opposed to audio tones. Thus, the media origination site of Hite must transmit CID codes instead of audio tones and the display site of Hite is incapable of detecting audio tones to substitute a commercial but is instead responsive to the CID codes that the media origination site is required to send. Accordingly, should a broadcast include the conventional audio tones normally detected by a local affiliate to insert a commercial to be sent to an end user, the display site of Hite would fail to insert a commercial since the audio tone would not be recognized as a CID code. Accordingly, claim 21 is allowable over Hite for at least these reasons.

### 103 Rejections

Claims 4-7, 9-11, and 18-20 are rejected under 35 USC 103(a) as being unpatentable over Hite. However, as discussed above, each of these claims depends from an allowable base claim and is also allowable for at least the same reasons.

### New claim 22

New claim 22 is directed to a computer readable medium and recites receiving information into the end user device that provides an indication of topics of interest of an end user and requesting and downloading from an external source commercials that correspond to the topics of interest that have been specified. As discussed above, Hite fails to disclose the display site receiving information about the topics of interest to the end user and further fails to request commercials from the media origination site that correspond to the topics of interest. Accordingly, claim 22 is also allowable over Hite.

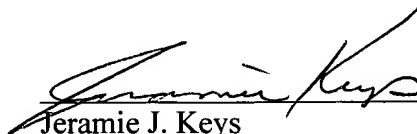
### Conclusion

Applicants assert that the application including claims 1-16 and 18-22 is now in condition for allowance. Applicants request reconsideration in view of the amendments and remarks above and further request that a Notice of Allowability be provided. Should the Examiner have any questions, please contact the undersigned.

No fees beyond the fee for one additional independent claim and the one month extension of time are believed due. However, please charge any additional fees or credit any overpayment to Deposit Account No. 50-3025.

Respectfully submitted,

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